

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 92 OF 2001.

Premchander Badirprasad Shrivastava. ... Applicant.

Versus.

Leena Nitin Kayani & others.

... Respondents.

Shri M.S.Mohite for the Applicant.

Shri H.L.Palve for the Respondent No.1.

Shri A.S.Shitole, A.P.P. for the State.

CORAM : ABHAY S.OKA, J.

DATED : 11th September, 2006.

P.C.:

1. Heard the learned Advocates appearing for the parties. The Revision Application has been filed at the instance of the aggrieved party challenging the order of acquittal passed by the learned Judicial Magistrate. By the impugned order, the Respondents were acquitted of offence punishable under section 420 read with section 34 of the Indian Penal Code.

2. Shri Mohite appearing for the Applicant, who is the first informant, submitted that there was a clear dishonest intention on the part of the Respondents to induce the Applicant to part with a sum of Rs.1 lakh. He submitted that at the time of entering into the transaction, in fact Respondent No.2 was holding a flat. He, therefore, submitted that the impugned Judgment and

order is perverse.

3. I have considered the submissions. The learned trial Magistrate has considered the evidence of all the six prosecution witnesses and has come to the conclusion that the existence of dishonest intention to induce the Applicant to part with the money was not established. The learned Magistrate after considering the evidence on record was of the view that at the highest it will be a breach of contract and the ingredients of section 420 of the Code are not attracted.

4. Considering the findings of facts recorded by the learned Magistrate, no case is made out for interference. Revision Application is rejected.

Judge.